

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

CARLY GRAFF, et al.,

Plaintiffs,

v.

**ABERDEEN ENTERPRIZES II,
INC., et al.,**

Defendants.

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Case No. 4:17-cv-606-TCK-JFJ

PLAINTIFFS’ CONSENT MOTION TO MODIFY BRIEFING SCHEDULE

Plaintiffs respectfully move this Court to modify its scheduling order entered on May 24, 2023. In its order, the Court granted in part and denied in part Defendants’ Motion to Set a Briefing Schedule, Doc. 372, which, among other things, proposed a briefing schedule that would have made Defendants’ renewed motions to dismiss due on June 16, 2023; Plaintiffs’ responses due on July 20, 2023; and Defendants’ replies due on August 9, 2023. Although Plaintiffs opposed several aspects of Defendants’ motion, including its failure to stipulate to a consolidated response brief, the parties agreed on the timeline proposed by Defendants. *See* Doc. 377. The current scheduling order amends the timeline agreed upon by the parties in two ways. First, it delays the initial deadline for renewed motions, which Plaintiffs do not oppose. Second, it shortens the response window for Plaintiffs—and only Plaintiffs. Under Defendants’ proposal, Plaintiffs would have had approximately five weeks to file their briefs in opposition to the renewed motions to dismiss, and Defendants would have had approximately three weeks to file their replies. Under the current scheduling order, the response and reply windows are each only three weeks. Notably, in that time Plaintiffs will be required to fully respond to each motion by Defendants, of which there were

thirteen in previous rounds of briefing, while each Defendant group will only be responsible for addressing issues affecting their particular brief.

Accordingly, Plaintiffs request that the Court amend its scheduling order to make Plaintiffs' response(s) due on August 10, 2023, and Defendants' replies due on August 31, 2023. Not only would these deadlines reflect the timeline originally agreed upon by the parties, but they would also adhere more closely to the default deadlines contemplated by this Court's local rules, which allow additional time for responses when compared with reply briefs. *See* LCvR7-1(e)-(f) ("Each party opposing a motion . . . shall file and serve upon all other parties a response within twenty-one days from the date the motion was filed. . . . Reply briefs regarding new matters in the response brief may be filed within fourteen days from the due date of the response."). These deadlines would also mirror those entered by this Court in granting the parties' joint motion for extension of time filed in connection with Defendants' initial motions to dismiss.¹ Counsel for Defendants were consulted before filing this motion and have consented to this modified schedule.

Additionally, Plaintiffs note that this Court has not addressed Plaintiffs' request to file a single consolidated response brief. *See* Doc. 377. Plaintiffs seek clarification about this Court's decision with regard to that request. Should it be denied, there is an additional reason to grant a modified schedule with additional time for responses, as Plaintiffs will require time to draft multiple separate briefs responding to whatever number of briefs that Defendants file, while also "employ[ing] a . . . system . . . to avoid inundating the court with dozens of pages of redundant or identical briefing." *Id.* at 2.

This proposed extension of time and amended briefing schedule will not affect any other

¹ *See* Minute Order of Nov. 16, 2018 (granting parties joint extension motion, Doc. 260, and ordering Plaintiffs to respond to motions to dismiss filed on October 22, 2018 by November 30, 2018, and Defendants to reply by December 21, 2018).

deadlines in this case.

Dated: June 2, 2023

Respectfully submitted,

/s/ Daniel E. Smolen

Daniel Smolen, OBA #19943
Robert M. Blakemore, OBA #18656
Smolen & Roytman
701 South Cincinnati Avenue
Tulsa, OK 74119
Tel: 918-585-2667
Fax: 918-585-2669

/s/ Ryan Downer

Ryan Downer (admitted pro hac vice)
D.C. Bar No. 1013470
Civil Rights Corps
1601 Connecticut Ave. NW Ste 800
Washington, DC 20009
Tel: 202-844-4975
ryan@civilrightscorps.org

/s/ Seth Wayne

Seth Wayne (admitted pro hac vice)
D.C. Bar No. 888273445
Institute for Constitutional Advocacy and
Protection
Georgetown University Law Center
600 New Jersey Ave. NW
Washington, DC 20001
Tel: 202-662-9042
sw1098@georgetown.edu

CERTIFICATE OF SERVICE

I hereby certify that on June 2, 2023, I electronically transmitted the foregoing document to the Clerk of Court using ECF System for filing and transmittal of a Notice of Electronic Filing to all ECF registered counsel of record.

/s/ Seth Wayne